



*Commonwealth of Virginia*

***VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY***

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**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
VIRGINIA MIRROR COMPANY INC.  
FOR  
VIRGINIA MIRROR COMPANY INC.  
EPA ID No. VAD003121050**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Department, and Virginia Mirror Company Inc., regarding the Virginia Mirror Company Inc., for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code § 10.1-1182 *et seq.*, § 10.1-1400 *et seq.*, 9 VAC 20-60-12 *et seq.*, Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Virginia Mirror Company Inc. (VMCI) is a business entity authorized to do business in Virginia and references to VMCI include its affiliates, partners, and subsidiaries. VMCI is a "person" within the meaning of Va. Code § 62.1-44.3.

2. VMCI owned and operated the Facility in Martinsville, Virginia at the time the violations occurred. At the Facility, silvering and painting operations are performed in the manufacturing process of mirrors and glass. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
3. VMCI is identified in the RCRA Information System database as a SQG of hazardous waste. VMCI was issued EPA ID No. VAD003121050 for the Facility. In a subsequent form received October 12, 2021, VMCI gave notice as an LQG of hazardous waste and a Small Quantity Handler of Universal Waste at the Facility.
4. At the Facility, VMCI generates various hazardous and non-hazardous wastes. The following lists the solid wastes and hazardous wastes, that are generated and accumulated at the Facility, followed by the corresponding waste code:

**HAZARDOUS WASTES:** Waste paint/paint related materials & solids; D001, D004, D005, D006, D007, D008, D011, D018, F003, F005 Waste corrosive liquids (basic and acidic); D002 [episodic in 2020]

**REGULATED WASTES:** (NH) Used oil Spent lead acid batteries

**UNIVERSAL WASTES:** Spent fluorescent lamps

5. On August 24, 2021, Department staff performed a desk-top, audit style review for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
  - a. VMCI did not ship hazardous waste offsite between April 12, 2018, and February 25, 2020. VMCI accumulated hazardous waste over 180 days. VMCI did not request an extension to the accumulation time. VMCI did not retain documentation during the referenced period, therefore the Department cannot determine or evaluate the generator status of VMCI for this period of time.
  - b. VMCI stored accumulated hazardous waste on-site for over one year. VMCI did not notify the Department and no justification has been provided to the Department that storage of hazardous waste over a year was necessary.
  - c. VMCI generated over 2, 200 pounds of hazardous waste during the month of December 2020 and did not notify the Department or EPA of the change to its LQG status.
  - d. VMCI did not pay the LQG hazardous waste fee to the Department for calendar year 2020.
  - e. VMCI did not re-notify EPA of its continued SGQ status by the deadline of September 1, 2021.
  - f. VMCI did not provide documentation to confirm the hazardous waste containers located in the Central Accumulation Area were labeled with the accumulation start date.

- g. VMCI did not provide documentation to confirm the hazardous waste containers located in the Central Accumulation Area and satellite accumulation areas were labeled with an indication of the hazards or risks associated with the waste contained within.
  - h. VMCI did not document weekly inspections.
  - i. VMCI did not develop a quick reference guide and distribute it to emergency responders and other agencies.
  - j. VMCI did not ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.
  - k. VMCI did not ensure universal waste was contained in a closed package or container.
  - l. VMCI did not ship universal waste between 2019 and May 11, 2021. VMCI accumulated universal waste over one year.
  - m. VMCI did not demonstrate the length of time universal waste has been accumulated.
6. 40 CFR § 262.16(b), as referenced in 9 VAC 20-60-262, states in part, “the generator can accumulate hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation.”
7. 40 CFR § 268.50(a), as referenced in 9 VAC 20-60-268, states, “except as provided in this section, the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the following conditions are met: (1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in §§ 262.16 and 262.17 and parts 264 and 265 of this chapter”.
8. 9 VAC 20-60-315(D) requires that anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.
9. 9 VAC 20-60-262(B)(8) requires large quantity generators to pay an annual fee to the Department.
10. 9 VAC 20-60-1283(B) states, “each large quantity generator of hazardous waste shall be assessed and annual fee as shown in 9VAC20-60-1285.E to be paid in accordance with 9VAC20-60-1284. Additionally, Pursuant to 9 VAC 20-60-1283E, anyone who operates a facility (including those described in subsections A and C of this section) or who is a large quantity generator at any time during the year shall be assessed the full annual fee amount no matter how short the period the facility is operated or how briefly the generator is a large quantity generator. A generator who is a large quantity generator episodically or provisionally (having received a provisional EPA Identification Number) shall be assessed the full annual fee for any year in which the generator was a large

quantity generator. For the evaluation of facility status or of generator status, the annual year shall be considered to be from January 1 to December 31.”

11. 40 CFR § 262.18(d)(1), as referenced in 9 VAC 20-60-262, states, “a small quantity generator must re-notify EPA starting in 2021 and every four years thereafter using EPA Form 8700-12. This re-notification must be submitted by September 1st of each year in which re-notifications are required.”
12. 40 CFR §262.16(b)(6)(i)(c), as referenced in 9 VAC 20-60-262, states, “a small quantity generator must mark or label its containers with the following: the date upon which each period of accumulation begins clearly visible for inspection on each container.”
13. 40 CFR §262.15(a)(5)(ii), as referenced in 9 VAC 20-60-262, states, “a large quantity generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).”
14. 40 CFR §262.16(b)(2)(iv), as referenced in 9 VAC 20-60-262, states, “at least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.”
15. 40 CFR §262.16(b), as referenced in 9 VAC 20-60-262, states in part, “a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.”
16. 40 CFR §262.16(b)(9)(iii), as referenced in 9 VAC 20-60-262, states, “the small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.”
17. 40 CFR §273.13(d)(1), as referenced in 9 VAC 20-60-273, states, “a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”

18. 40 CFR §273.15(a), as referenced in 9 VAC 20-60-273, states, “a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler unless the requirements of paragraph (b) of this section are met.”
19. 40 CFR §273.15(c), as referenced in 9 VAC 20-60-273, states, “a small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.”
20. On February 15, 2022, based on the inspection and follow-up information, the Department issued Notice of Violation No. NOV-22-02-BRRO-001 to Virginia Mirror Company Inc. for the violations described in paragraphs C5 through C19, above.
21. Between January 2022 and January 2023, Virginia Mirror Company Inc. corresponded with Department staff and met with Department staff to discuss the NOV and the actions taken by VMCI to return to compliance with the regulatory requirements. The Department accepted the documentation and actions taken by VMCI and VMCI has returned to compliance. Therefore, this consent order does not include a schedule of compliance.
22. Based on the results of the August 24, 2021 inspection, the Department concludes that VMCI has violated 40 CFR § 262.16(b); 40 CFR § 268.50(a); 9 VAC 20-60-315(D); 9 VAC 20-60-262(B)(8); 9 VAC 20-60-1283(B); 40 CFR § 262.18(d)(1); 40 CFR §262.16(b)(6)(i)(c); 40 CFR §262.15(a)(5)(ii); 40 CFR §262.16(b)(2)(iv); 40 CFR §262.16(b); 40 CFR §262.16(b)(9)(iii); 40 CFR §273.13(d)(1); 40 CFR §273.15(a); 40 CFR §273.15(c), as described in paragraphs C4 through C20, above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Department orders VMCI, and VMCI agrees to:

1. Pay a civil charge of \$40,000 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

VMCI shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, VMCI shall be liable for attorneys' fees of 30% of the amount outstanding.

**SECTION E: Administrative Provisions**

1. The Department may modify, rewrite, or amend this Order with the consent of VMCI for good cause shown by VMCI, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, VMCI admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. VMCI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. VMCI declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.
6. Failure by VMCI to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. VMCI shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. VMCI shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. VMCI shall

notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and VMCI. Nevertheless, VMCI agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. The Director or his designee terminates the Order after VMCI has completed all of the requirements of the Order;
  - b. VMCI petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Department terminates the Order in his or its sole discretion upon 30 days' written notice to VMCI.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve VMCI from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by VMCI and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of VMCI certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind VMCI to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of VMCI.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, VMCI voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Lee Crowell, Director of Enforcement  
Department of Environmental Quality

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Consent Order

Virginia Mirror Company Inc.; EPA ID. No. VAD003121050

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Virginia Mirror Company, LLC. voluntarily agrees to the issuance of this Order.

Date: 2/9/23 By: Beverly Riddle, VP Human Resources  
(Person) (Title)  
Virginia Mirror Company, LLC.

Commonwealth of Virginia

City/County of Henry

The foregoing document was signed and acknowledged before me this 9th day of February, 2023, by Beverly Riddle who is VP Human Resources of Virginia Mirror Company, LLC., on behalf of the company.

A. Renee Turner

Notary Public

761 5073

Registration No.

My commission expires: 9/30/26

Notary seal:

**A. Renee Turner**

**Notary Public**

**Commonwealth of Virginia**

**Reg # 7615073**

**My Commission Expires** 9/30/26